

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ARTHUR PICCOLO,

Plaintiff,

-against-

NEW YORK CITY CAMPAIGN FINANCE  
BOARD,

Defendant.  
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GEORGE B. DANIELS, District Judge:

ORDER  
05 CV 7040 (GBD)(MHD)

Plaintiff Arthur Piccolo commenced this action, seeking injunctive relief and damages, alleging he had been denied access to three election-related programs administered by the Campaign Finance Board (“CFB”) during the months leading up to the 2005 New York City Mayoral election. Defendant CFB moved to dismiss the amended complaint for, *inter alia*, failure to state a claim. The matter was referred to Magistrate Judge Michael H. Dolinger for a Report and Recommendation (“Report”). In the Report, the Magistrate Judge recommends that defendant’s motion to dismiss be granted for plaintiff’s failure to state a claim.

The Court may accept, reject or modify, in whole or in part, the findings and recommendations set forth within the Report. 28 U.S.C. § 636(b)(1). When there are objections to the Report, the Court must make a *de novo* determination of those portions of the Report to which objections are made. *Id.*; Rivera v. Barnhart, 423 F.Supp.2d 271, 273 (S.D.N.Y. 2006). When no objections are made, the Court may adopt the Report if “there is no clear error on the face of the record.” Adee Motor Cars, LLC v. Amato, 388 F.Supp.2d 250, 253 (S.D.N.Y. 2005) (citation omitted). Magistrate Judge Dolinger advised the parties that failure to file timely objections would result in a waiver of those objections and preclusion of appellate review. Neither party filed objections, and the time in which to do so has expired.

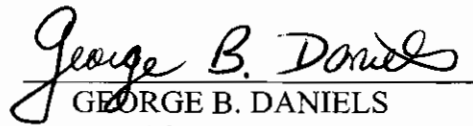
Magistrate Judge Dolinger recommends that plaintiff's claim for injunctive relief that would require his participation in the 2005 CFB Program be dismissed as moot. Magistrate Judge Dolinger also recommends that plaintiff's other claims for relief, including damages, be dismissed for failure to state a claim. Specifically, the Magistrate Judge found that plaintiff's equal-protection challenge to the CFB Program deadlines and debate criteria was unsustainable. Magistrate Judge Dolinger also found that plaintiff's challenge to all three of the election-related programming deadlines did not adequately allege violations of voters' rights. Lastly, the Magistrate Judge found that the debate-eligibility criteria did not offend plaintiff's First Amendment speech rights.

After careful review of the Magistrate Judge's thorough and thoughtful sixty-two page Report, the Court finds that the recommendation to dismiss is appropriate. The Court has examined the record and the Report and Recommendation, to which no objections were made, and finds that they are not facially erroneous.

Therefore, the Court adopts the Report's recommendation.<sup>1</sup> Accordingly, the defendant's motion is granted. The amended complaint is dismissed for failure to state a cause of action. The case is hereby closed.

Dated: New York, New York  
September 28, 2007

SO ORDERED:

  
GEORGE B. DANIELS  
United States District Judge

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<sup>1</sup> This Court also adopts the Magistrate Judge's recommendation that this Court decline to exercise jurisdiction over any discernable pendent State and City law claims.